

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THO QUANG TON, ) No. C 02-4199 JSW (PR)  
)  
Plaintiff, ) **ORDER DENYING CERTIFICATE  
OF APPEALABILITY**  
)  
vs. )  
)  
JIM HAMLET, WARDEN, )  
)  
Defendant. ) **(Docket No. 15)**  
)  
\_\_\_\_\_

Petitioner, a prisoner of the State of California, filed a petition for a writ of habeas corpus challenging the validity of his State conviction. On September 27, 2005, this Court entered an order denying the petition on the merits. On October 19, 2005, Petitioner filed a notice of appeal (docket no. 14) and a motion for a certificate of appealability pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(docket no. 15).

A judge shall grant a COA "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Petitioner has not demonstrated "that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Accordingly, the request for a certificate of appealability is DENIED (docket no. 15). The Clerk of Court shall forward this order, along with the case file, to the United States Court of Appeals for the Ninth Circuit from which Petitioner may also seek a certificate

1 of appealability. *See United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).

2 IT IS SO ORDERED.

3 DATED: April 12, 2006

4   
5 JEFFREY S. WHITE  
United States District Judge

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28